



EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. BJ 2008 - 67

SMALL PURCHASE PROCEDURES

- WHEREAS,** the Louisiana Procurement Code, in R.S. 39:1596, authorizes the governor to establish procedures for the procurement of small purchases with the caveat that “procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section”;
- WHEREAS,** the Louisiana Procurement Code exempts small purchases from the competitive sealed bidding requirements of the code;
- WHEREAS,** Louisiana businesses are a driving force in the Louisiana economy;
- WHEREAS,** Executive Order No. KBB-2007-10, signed on April 26, 2007, established the procedure for the procurement of small purchases in accordance with the statutory guidelines of the Louisiana Procurement Code; and
- WHEREAS,** it is necessary to rescind and terminate Executive Order No. KBB 2007-10 through the issuance of a replacement executive order;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter "agency") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order. This Order in no way affects or changes the purchasing authority delegated to an agency by the chief procurement officer as defined in R.S. 39:1556(3). No provision of this Order shall be construed as a limitation on the number of quotations to be solicited prior to making a purchase or procurement. Louisiana businesses, especially small and emerging businesses and small entrepreneurship, should be utilized to the greatest extent possible when soliciting prices.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

- A. "Small purchases" means (1) any procurement not exceeding twenty-five thousand dollars (\$25,000), or (2) any procurement of those items listed in Section 5 of this Order, regardless of price, except as noted in Paragraphs 5(A)(14), 5(A)(24) and 5(A)(26), which are exempt from the competitive sealed bidding requirements of the Louisiana Procurement Code.
- B. “Certified small and emerging business” means a business certified as a small and emerging business by the Division of Small and Emerging Business Development, Department of Economic Development, in accordance with the Provisions of the Small and Emerging Business Development Program, R.S. 51:941, *et seq.*, and included on the most recent list of certified small and emerging businesses issued by the Division of Certified Small and Emerging Business Development;
- C. “Small Entrepreneurship” means a business certified as a small entrepreneurship by the Department of Economic Development, in accordance with the provisions of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), R.S. 39:2006 (B); and

- D. “Louisiana authorized dealer” means a company that satisfies the requirements of a resident business defined in R.S. 39:1591(6) and is authorized by the manufacturer to sell and/or provide service for their products.

SECTION 3:

The following items are not subject to the procedures set forth in this Order:

- A. Those items covered by an existing state contract, and
- B. Public works contracts which exceed five thousand dollars (\$5,000) and are governed by the provisions of R.S. 38:2241.

SECTION 4:

Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures:

- A. No competitive process is required for purchases not exceeding one thousand dollars (\$1,000) per single purchase transaction.
- B. Price quotations shall be solicited from three (3) or more *bona fide*, qualified vendors for purchases exceeding one thousand dollars (\$1,000) but not exceeding five thousand dollars (\$5,000).
 - 1. Quotations may be made by telephone, facsimile, or other means and shall be awarded on the basis of the lowest responsive quotation. Whenever possible, at least one (1) of the *bona fide*, qualified vendors shall be a certified small and emerging business or a small entrepreneurship. Agency files shall document and list all solicited vendors and each vendor’s contact person, summarize quotations received, indicate the successful vendor and state the reason why any lower quotation was rejected. Agency files should also contain written confirmation of the quotation from the successful vendor;
 - 2. Soliciting three quotations may be waived when making purchases from a Small Entrepreneurship or Small and Emerging Business that is currently certified by the Louisiana Department of Economic Development, when the price is determined to be reasonable. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the file; and
 - 3. Soliciting three quotations may be waived when purchasing from a business registered with the Secretary of State as domiciled in Louisiana. A business analysis must determine that in-state prices are equal or better than two other current price comparisons. Comparisons may include, but are not limited to, state contract prices, General Services Administration (GSA) prices, or similar resources. Comparison documents are to be maintained in the file.
- C.
 - 1. Price quotations shall be solicited from five (5) or more *bona fide*, qualified vendors for purchases exceeding five thousand (\$5,000) but not exceeding twenty-five thousand dollars (\$25,000). Quotations may be made by facsimile or written means and shall be awarded on the basis of the lowest responsive price quotation received. Whenever possible, at least two (2) of the *bona fide*, qualified vendors shall be certified small and emerging businesses or small entrepreneurship. The requirement to solicit certified small and emerging businesses or small entrepreneurship is waived for those agencies that post on LaPAC, Louisiana’s internet based system for posting vendor opportunities and award information.
 - 2. A minimum of three (3) working days shall be allowed for receipt of quotations.
 - 3. All written or facsimile solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

4. Agency files shall document and list all solicited vendors and each vendor's response, summarize quotations received, indicate the awarded quotation, and state the reason why any lower quotation was rejected.

SECTION 5:

Except as provided in subsection A(14), A(24), or A(26) of this section, the following items are considered small purchases regardless of price and may be procured in the following manner:

A. No competitive process is required for the following items:

1. Repair parts for equipment obtained from a Louisiana authorized dealer shall be used if available. This provision does not apply to the stocking of parts;
2. Equipment repairs from a Louisiana authorized dealer shall be used if available.;
3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from a Louisiana authorized dealer shall be used if available.
4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;
5. Livestock purchased at public auction;
6. Purchasing or selling transactions between state budget units and other governmental agencies;
7. Publications and/or copyrighted materials purchased directly from the publisher or copyright holder, and web-based subscription services;
8. Publications and/or copyrighted materials purchased by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holder;
9. Public utilities and services provided by local governments;
10. Prosthetic devices, implantable devices, and devices for physical restoration, which are not covered by a competitive state contract;
11. Educational training and related resources (except equipment) used to enhance the performance of state employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations, except for customized training which is covered under R.S. 39:1481, *et seq*;
12. Purchases for clients of Blind and Vocational Rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;
13. Materials, supplies, exhibitor fees, and exhibit booths for conferences, seminars, and workshops, or similar events (business, educational, promotional, cultural, etc.) for participation in promotional activities which enhance economic development or further the department's mission, duties and/or functions, with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;
14. Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars (\$2,500).
15. Working class animals trained to perform special tasks, including but not limited to narcotics detection, bomb detection, arson investigation, and rescue techniques;
16. Food, materials and supplies for teaching and training where the purchasing, preparing, and serving of food is part of the regularly prescribed course;

17. Shipping charges and associated overseas screening and broker fees from between international and domestic origins and destinations;
 18. Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail;
 19. Renewal of termite service contracts;
 20. Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program. Although competitive bidding is not required under this paragraph, whenever practicable, three (3) quotations from *bona fide*, qualified vendors should be obtained. Whenever possible, and at least one (1) of the *bona fide*, qualified vendors shall be a certified small and emerging business or a small entrepreneurship;
 21. Purchasing of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;
 22. Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. §107, *et seq.*, and paid from income generated by unmanned vending locations;
 23. Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations;
 24. Commercial Internet Service not exceeding one thousand five hundred dollars (\$1,500) per subscription per year;
 25. Advertising, where permitted by law and the head of an agency or designee certifies that specific media is required to reach targeted audiences;
 26. Scientific and laboratory supplies and equipment when procured by colleges and universities for laboratory or scientific research not to exceed twenty-five thousand dollars (\$25,000) per transaction;
 27. Publication of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the purchase of reprints;
 28. Livestock sperm and ova;
 29. Royalties and license fees for use rights to intellectual property, including but not limited to patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names, etc.;
 30. Equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warranty, etc.;
 31. Mailing list rentals or purchases; and
 32. Art Exhibition rentals and/or loan agreements and associated costs of curatorial fees, transportation and installation.
- B. For the following items, telephone or facsimile price quotations shall be solicited, where feasible, to at least three (3) *bona fide*, qualified vendors. Whenever possible, at least one (1) of the *bona fide*, qualified vendors shall be a certified small and emerging business or a small entrepreneurship.
1. Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable and the competitive sealed bidding process is not conducive for obtaining the lowest prices;
 2. Food, materials, and supplies needed for:

- a. Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available; and/or
 - b. Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;
3. Convention and meeting facilities, provided that any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49 – General Travel Regulations;
4. Gasoline and fuel purchases not covered by competitive state contract;
5. Equipment for blind-operated facilities not covered by competitive state contract;
6. Feed commodities, including but not limited to soybean meal, cottonseed meal, and oats;
7. Aircraft parts, repairs, inspections, and modifications approved by the head of the agency, head of Division of Administration Flight Operations or the head's designee, and performed by an FAA-certified mechanic and/or at an FAA-certified repair station in accordance with FAA requirements; and
8. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

SECTION 6: In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive process or the solicitation of competitive sealed bids.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 8: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

/S/ Bobby Jindal
GOVERNOR OF LOUISIANA

**ATTEST BY
THE GOVERNOR**

/S/ Jay Dardenne
SECRETARY OF STATE